

DEED WITHOUT WARRANTY

THIS DEED, made this 16TH day of SEPTEMBER, 19 82,
by and between the UNITED STATES OF AMERICA, Grantor, acting by and through the
Secretary of the Army, under and pursuant to the powers and authority contained in
Section 23 of the Airport and Airways Development Act of 1970 (84 Stat. 232; 49
U.S.C. 1723) and in conformity with Part 154 of Title 14 and Section 0.67 of Title
28 of the Code of Federal Regulations and Executive Order No. 12079, 43, Fed. Reg.
42233 (1978) and in accordance with the request of the Administrator of the Federal
Aviation Administration (herein called the "Administrator"), and the CITY OF SIERRA
VISTA, a municipal corporation of the State of Arizona, Grantee.

WHEREAS, it has been determined that the conveyance requested by the Admin-
istrator is not inconsistent with the needs of the Department of the Army.

WITNESSETH: That the Grantor, in consideration of the benefits which shall
accrue to the public by virtue of the use of the property hereinafter described for
public airport purposes, does hereby bargain, sell, grant and convey without war-
ranty, express or implied, subject to the conditions, covenants and reservations
hereinafter set forth, unto the Grantee all of its right, title and interest in and
to the following described land, to-wit:

PARCEL A

PUBLIC TERMINAL AREA

A parcel of land situate in the Fort Huachuca Military Reservation being a
portion of the projected but unsurveyed Section 20, Township 21 South, Range 20 East,
Gila and Salt River Meridian, in the County of Cochise, State of Arizona, described
as follows, basis of bearings being Transverse Mercator Grid, East Zone, Arizona:

Commencing at a plastic capped pin, L.S. 11845, on the West right-of-way line
of State Highway 90, said point being on the North line of Section 20, located approx-
imately 445.96 feet West of the Northeast corner of Section 20; thence South 21° 19'
22" East a distance of 598.52 feet to an aluminum capped pipe, said point being marked
F.H.M.R. 1932; thence South 33° 25' 48" West a distance of 2,010.71 feet to a three-
inch brass monument in concrete, tagged P.E. 11712; thence West a distance of 160.87
feet to a half-inch steel pin tagged P.E. 11712; said point being the TRUE POINT OF
BEGINNING: Thence South a distance of 650.00 feet to a half-inch steel pin tagged
P.E. 11712; thence West a distance of 722.12 feet to a half-inch steel pin tagged P.E.
11712; thence South 36° 47' 44" West a distance of 666.22 feet to a plastic capped pin,
P.E. 1270; thence North 53° 12' 16" West a distance of 100.00 feet to a two-inch brass
monument in concrete, tagged P.E. 1270; thence North 36° 47' 44" East a distance of
380.00 feet to a half-inch steel pin tagged P.E. 11712; thence North 53° 12' 16" West
a distance of 842.63 feet to a half-inch steel pin tagged P.E. 11712; thence North 36°
47' 44" East a distance of 700.00 feet to a half-inch steel pin tagged P.E. 11712;
thence South 53° 12' 16" East a distance of 410.63 feet to a half-inch steel pin
tagged P.E. 11712; thence East a distance of 900.31 feet to a half-inch steel pin
tagged P.E. 11712, said point being the TRUE POINT OF BEGINNING.

ACCESS ROAD

A parcel of land situate in the Fort Huachuca Military Reservation being a portion of the projected but unsurveyed Section 20, Township 21 South, Range 20 East, Gila and Salt River Meridian, in the County of Cochise, State of Arizona, described as follows, basis of bearings being Transverse Mercator Grid, East Zone, Arizona:

Commencing at a plastic capped pin, L.S. 11845, on the West right-of-way line of State Highway 90, said point being on the North line of Section 20, located approximately 445.96 feet West of the Northeast corner of Section 20; thence South $21^{\circ} 19' 22''$ East a distance of 598.52 feet to an aluminum capped pipe, said point being marked F.H.M.R. 1932; thence South $33^{\circ} 25' 48''$ West a distance of 2,010.71 feet to a three-inch brass monument in concrete, tagged P.E. 11712; thence West a distance of 160.87 feet to a half-inch steel pin tagged P.E. 11712; said point being the TRUE POINT OF BEGINNING: Thence South a distance of 80.00 feet to a half-inch steel pin tagged P.E. 11712; thence East a distance of 613.92 feet to a half-inch steel pin tagged P.E. 11712; thence North $52^{\circ} 46' 22''$ East a distance of 1,298.75 feet to a half-inch steel pin tagged P.E. 11712, said point being on the West right-of-way line of State Highway 90; thence North $21^{\circ} 18' 37''$ West along said West right-of-way line a distance of 83.19 feet to a half-inch steel pin tagged P.E. 11712; thence South $52^{\circ} 46' 22''$ West a distance of 1,294.62 feet to a half-inch steel pin tagged P.E. 11712; thence West a distance of 586.98 feet to a half-inch steel pin tagged P.E. 11712, said point being the TRUE POINT OF BEGINNING.

Containing 3.48 acres, more or less.

AND the Grantor, pursuant to the authority cited above and for the same consideration, hereby grants without warranty, express or implied, unto the said Grantee:

A license for a term not to exceed five years from the date of this deed for the operation and maintenance of existing public airport terminal facilities, pending the reestablishment thereof on Parcel A, on the following described land, to wit:

PARCEL C

CONDITIONAL USE AREA

A parcel of land situate in the Fort Huachuca Military Reservation being a portion of the projected but unsurveyed Section 20, Township 21 South, Range 20 East, Gila and Salt River Meridian, in the County of Cochise, State of Arizona, described as follows, basis of bearings being Transverse Mercator Grid, East Zone, Arizona:

Commencing at a plastic capped pin, L.S. 11845, on the West right-of-way line of State Highway 90, said point being on the North line of Section 20, located approximately 445.96 feet West of the Northeast corner of Section 20; thence South $21^{\circ} 19' 22''$ East a distance of 598.52 feet to an aluminum capped pipe, said point being marked F.H.M.R. 1932; thence South $33^{\circ} 25' 48''$ West a distance of 2,010.71 feet to a three-inch brass monument in concrete, tagged P.E. 11712; thence West a distance of 160.87 feet to a half-inch steel pin tagged P.E. 11712; thence South a distance of 650.00 feet to a half-inch pin tagged P.E. 11712, said point being the TRUE POINT OF BEGINNING: Thence West a distance of 722.12 feet to a half-inch steel pin tagged P.E. 11712; thence South $36^{\circ} 47' 44''$ West a distance of 666.22 feet; thence North $53^{\circ} 12' 16''$ West a distance of 100.00 feet; thence North $36^{\circ} 47' 44''$ East a distance of 380.00 feet to a half-inch steel pin tagged P.E. 11712; thence North $53^{\circ} 12' 16''$ West a distance of 716.90 feet; thence South $36^{\circ} 46' 38''$ West a distance of 380.00 feet; thence South $53^{\circ} 12' 16''$ East a distance of 716.78 feet; thence South $53^{\circ} 12' 16''$ East a distance of 100.00 feet; thence South $53^{\circ} 12' 16''$ East a distance of 632.48 feet; thence North $36^{\circ} 47' 35''$ East a distance of 718.83 feet; thence North $41^{\circ} 21' 17''$ East a distance of 1,207.89 feet; thence West a distance of 613.92 feet; thence South a distance of 570.00 feet to the TRUE POINT OF BEGINNING.

Containing 24.28 acres, more or less.

A non-exclusive easement to use the runways and taxiways at Libby Army Airfield, Ft. Huachuca, Arizona, said runways and taxiways being situate on the following described land, to-wit:

PARCEL D

JOINT-USE RUNWAY AND TAXIWAY AREA

A parcel of land situate in the Fort Huachuca Military Reservation being a portion of the projected but unsurveyed Sections 19, 20, and 29, Township 21 South, Range 20 East, Gila and Salt River Meridian, in the County of Cochise, State of Arizona, described as follows, basis of bearings being Transverse Mercator Grid, East Zone, Arizona:

Commencing at a plastic capped pin, L.S. 11845, on the West right-of-way line of State Highway 90, said point being on the North line of Section 20, located approximately 445.96 feet West of the Northeast corner of Section 20; thence South 21° 19' 22" East a distance of 598.52 feet to an aluminum capped pipe, said point being marked F.H.M.R. 1932; thence South 33° 25' 48" West a distance of 2,010.71 feet to a three-inch brass monument in concrete, tagged P.E. 11712; thence West a distance of 160.87 feet to a half-inch steel pin tagged P.E. 11712; thence South a distance of 650.00 feet to a half-inch steel pin tagged P.E. 11712, said point being the TRUE POINT OF BEGINNING: Thence West a distance of 722.12 feet; thence South 36° 47' 44" West a distance of 666.22 feet; thence North 53° 12' 16" West a distance of 100.00 feet; thence North 36° 47' 44" East a distance of 380.00 feet; thence North 53° 12' 16" West a distance of 842.63 feet; thence North 36° 47' 44" East a distance of 495.04 feet; thence North 53° 12' 16" West a distance of 2,411.67 feet; thence South 36° 47' 44" West a distance of 2,718.11 feet; thence South 89° 59' 44" West a distance of 7,621.49 feet; thence South 00° 00' 16" East a distance of 2,200.00 feet; thence North 89° 59' 44" East a distance of 8,671.99 feet; thence South 80° 47' 54" East a distance of 5,408.90 feet; thence North 00° 00' 16" West a distance of 3,065.35 feet; thence South 89° 59' 31" West a distance of 1,478.59 feet to the TRUE POINT OF BEGINNING.

Containing 861.78 acres, more or less.

THIS GRANT is subject to the following covenants and conditions which the Grantee, by acceptance of this deed, assumes for itself and its successors and assigns, as covenants running with the land:

1. That the property interests herein conveyed will be used by the Grantee and its assigns solely for public airport purposes in connection with the joint use of Libby Army Airfield, Ft. Huachuca, Arizona, with the Department of the Army and its assigns.
2. That the joint use of the runways and taxiways at the said airfield by the Grantee and its assigns shall be subject to all applicable laws, regulations and ordinances and to such rules and regulations as may be prescribed from time to time by the Department of the Army. The Department of the Army will, however, consult with the Grantee prior to establishing new rules or regulations affecting the Grantee's use of the runways and taxiways.
3. That the joint use of the runways and taxiways at the said airfield by the Grantee and its assigns shall not interfere or be incompatible with the use of the said facilities by the Department of the Army and the Department of the Army may temporarily suspend or limit civil aviation operations to avoid interference with military operations at the said airfield; provided: That the Grantee

shall be given notice of any impending temporary suspension or limitation as far in advance as practicable.

4. That the Department of the Army shall be under no obligation to operate or maintain the Government-owned airport facilities, including, but not limited to, the runways, taxiways, navigational aids, and tower, at Libby Army Airfield, and in no way guarantees that it will continue to provide such operation and maintenance. In the event that the Department of the Army does not operate or maintain the joint-use area, the Grantee may, at its own expense, operate and/or maintain the area.

✓ 5. That the Grantee or its assigns may improve or alter the existing runways, taxiways and appurtenances thereto or portions thereof and/or construct new runways, taxiways and appurtenances thereto within Parcel D identified above; provided: That any such improvements, alterations and/or construction shall conform with all applicable laws and rules, regulations and specifications of the Federal Aviation Administration and the Department of the Army.

6. That the Grantee shall not transfer or assign the property interests herein conveyed without approval of the Department of the Army; provided: That the granting of leases, concessions, permits, licenses and similar rights or privileges on Parcel A identified above shall not be construed as a transfer or assignment.

7. That the Grantee shall neither operate nor contribute funds for the operation of any other airport facilities or landing strips within the vicinity of Libby Army Airfield which in the opinion of the Commander, Fort Huachuca, Arizona, would constitute a hazard to operations at Libby Army Airfield.

✓ 8. That the Department of the Army reserves the right to enter into separate agreements with third parties for use of the runways and taxiways at Libby Army Airfield. Any agreement entered into by the Department of the Army necessitating accommodations on Area A will require the third party to negotiate with the Grantee for such accommodations. The Grantee, provided it does not operate and maintain the runways and taxiways, shall not charge landing fees for either commercial or general aviation purposes at Libby Army Airfield without the approval of the Department of the Army.

9. That the Grantee shall provide available accommodations on Parcel A identified above to each third party having an agreement with the Department of the Army allowing the use of the joint use area; provided: That the terms and conditions regarding such accommodations shall be as negotiated between said third party and the Grantee. Third parties under agreement with the Department of the Army will be granted use of available accommodations in Parcel A required to fulfill such agreement at rates and under conditions no less favorable than those granted to any other party using Parcel A.

10. That unless otherwise approved by the Department of the Army, all air-traffic in the restricted air space and the air pattern for Libby Army Airfield and on the runways and taxiways at Libby Army Airfield will be under the sole operational control of the Department of the Army. Notwithstanding the foregoing, no weather briefings will be furnished by the Department of the Army. The Grantee will provide a public telephone which can be used for the filing of flight plans and obtaining weather briefings from the appropriate FAA flight service stations (FSS). Nothing in this condition or elsewhere in the deed shall be construed as an obligation on the part of the Department of the Army to provide any services whatsoever to the Grantee or others.

11. That the Grantee shall be responsible for providing any emergency or other required servicing and/or maintenance for civil aircraft utilizing the facilities at Libby Army Airfield.

12. That the Grantee and the Commander, Fort Huachuca, Arizona, shall enter into such separate agreements regarding mutual assistance in case of crash, fire, rescue, or other emergency, as appropriate; provided: That the terms of such agreements are not inconsistent with the terms and conditions of this deed.

13. That the Grantee and others operating under authority of the Grantee may conduct or allow pilot training activities at Libby Army Airfield subject to all applicable laws and regulations.

✓ 14. That the Grantee will obtain from a reputable insurance company, acceptable to the Department of the Army, naming the United States of America as co-insured, airport operators liability or indemnity insurance, providing for minimum limits of \$500,000 per person for any one claim, and an aggregate limit of \$1,000,000 for any number of persons or claims arising from any one incident with respect to bodily injury or death resulting therefrom, and \$500,000 for damage to property suffered or alleged to have been suffered by any person or persons; provided: That the minimum limits herein stated shall be adjusted from time to time as deemed appropriate by the Department of the Army. Said insurance shall remain in force during all periods of civil aviation operations at Libby Army Airfield.

✓ 15. That the Grantee shall maintain over and across Parcel B, an access road from Arizona State Highway No. 90 to Parcel A. The Grantee shall maintain in good order a fence at each side of the access road. The Grantee shall promptly construct and thereafter maintain such fences on Parcels A and C as necessary for security purposes as determined by the Department of the Army. The fences required by this condition shall be constructed in accordance with specifications acceptable to the Department of the Army.

✓ 16. That the Commander, Fort Huachuca, Arizona, may, if he deems it to be in the best interest of the Government, require the Grantee to reduce the total volume of water extracted from any well(s) on the said premises to that which is absolutely essential to the operation of public airport facilities thereon.

17. That the Grantee shall, at its sole expense, remove, abandon, and/or relocate all existing structures, facilities, or improvements on Parcel C within five years from the date of this deed and restore the premises to a condition satisfactory to the Commander, Headquarters, Ft. Huachuca, AZ, unless the continued operation and maintenance of such structures, facilities, or improvements are authorized by a separate instrument executed by, or by authority of, the Secretary of the Army. It is intended that the Grantee shall proceed diligently to reestablish all public airport terminal facilities on Parcel A prior to expiration of the five-year period. In the event the Grantee desires authority to continue to operate and maintain existing public airport facilities on Parcel C beyond the five year period, the Grantee shall cooperate by submitting an appropriate application to the Commander, Headquarters, Ft. Huachuca, at least six months prior to expiration of the five year period.

✓ 18. That prior to the construction of any improvements of the said premises, the Grantee shall coordinate the general design of such improvements with the Commander, Fort Huachuca, Arizona.

✓ 19. That the right is hereby reserved to the United States, its officers, agents, and employees to enter upon the said premises at any time for the purpose of inspection and inventory and when otherwise deemed necessary for the protection of the interests of the United States and the Grantee shall have no claim of any character on account thereof against the United States or any officer, agent, or employee thereof.

✓ 20. That all improvements constructed on the said premises by or under the authority of the Grantee shall be maintained in good order and repair without cost or expense to the Department of the Army.

21. That the Grantee will not construct or allow to be constructed any facilities on the said premises within the primary surface, a surface located on the ground longitudinally centered on the runway with the same length as the runway and having a width of 2000 feet (1000 feet on either side of the center line of the runway), except as authorized by Federal Aviation Administration and/or applicable military regulations.

22. That during any national emergency declared by the President of the United States of America or the Congress thereof, the Government shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which any of the property transferred by this instrument is located or used, or of such portion thereof as it may desire, provided, however, that the Government shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively, or over which it may have exclusive possession or control, during the period of such use, possession, or control, and shall be obligated to contribute a reasonable share, commensurate with

the use made by it, of the cost of maintenance of such property as it may use non-exclusively or over which it may have nonexclusive control and possession; provided, further, that the Government shall pay a fair rental for its use, control, or possession, exclusively or nonexclusively of any improvements to the airport made without United States aid.

23. That the United States shall not be responsible for any damages to property or injuries to persons which may arise from or be incident to the use or occupation of the said premises, or for damages to the property of the Grantee, or for damages to the property or injuries to the person of the Grantee's officers, agents, servants, or employees, or others who may be in or on said premises at their invitation or the invitation of any one of them, arising from or incident to governmental activities; and the Grantee shall hold the United States harmless from any and all such claims, except for such claims which result from willful misconduct of, or solely from the negligence of, the United States, its officers, agents, servants, or employees.

24. That any property of the United States damaged or destroyed incident to use and occupation of the premises for public airport purposes shall be promptly repaired or replaced by the Grantee, or in lieu of such repair or replacement the Grantee shall, if so requested, pay to the United States money in an amount sufficient to compensate for the loss sustained by the United States by reason of damages to or destruction of Government property.

25. That the United States reserves to itself and others rights-of-way for all purposes across, over, and/or under the said premises; provided: That such rights shall be used in a manner that will not create unnecessary interference with the use and enjoyment by the Grantee of said premises for public airport purposes. The Department of the Army expressly reserves the right to realign, modify, alter or remove existing airport facilities and/or to construct new airport facilities within Parcel D. The Department of the Army specifically reserves a right-of-way for the existing Government-owned power line running from State Highway 90 to the existing public airport terminal area which line traverses portions of the said premises.

26. That portions of the said premises are presently used and occupied by the Grantee for public airport purposes under authority of Lease No. DACA09-1-73-150, as amended, granted by the Secretary of the Army for a term of 20 years beginning 14 October 1970 and ending 13 October 1990. Upon delivery of this deed, properly executed, the aforesaid Lease No. DACA09-1-73-150, as amended, shall terminate and be rendered null and void in its entirety. No refund of any prepaid rental shall be made to the Grantee upon such termination.

27. That the Grantee will use the property interest for airport purposes, and will develop that interest for airport purposes within one year after the date of this conveyance, except that if the property interest is necessary to meet future development of an airport, in accordance with the National Airport System Plan, the Grantee will develop that interest for airport purposes on or before the period provided in the plan or within a period satisfactory to the Administrator and any interim use of that interest for other than airport purposes will be subject to such terms and conditions as the Administrator may prescribe.

28. That the airport, and its appurtenant areas and its buildings and facilities, whether or not on the land conveyed, will be operated as a public airport on fair and reasonable terms, without discrimination on the basis of race, color, or national origin, as to airport employment practices, and as to accommodations, services, facilities, and other public uses of the airport.

29. That the Grantee will not grant or permit any exclusive right forbidden by Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) at the airport, or at any other airport now owned or controlled by it.

30. That in the operation of the airport and its appurtenant areas, the Grantee:

a. agrees that no person shall be excluded from any participation, be denied any benefits or be otherwise subjected to any discrimination, on the grounds of race, color, or national origin;

b. agrees to comply with all requirements imposed by or pursuant to Part 21 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21) - nondiscrimination in federally assisted programs of the Department of Transportation -

31. That the furtherance of the policy of the FAA under this covenant, the Grantee:

a. agrees that, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the airport, or at any other airport now owned or controlled by it, to conduct any aeronautical activities, including, but not limited to, charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which, because of their direct relationship to the operation of aircraft, can be regarded as an aeronautical activity; and

b. agrees that it will terminate any existing exclusive right to engage in the sale of gasoline or oil, or both, granted before July 17, 1962, at such an airport, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right; and

c. agrees that it will terminate forthwith any other exclusive right to conduct any aeronautical activity now existing at such an airport.

32. That any later transfer of the property interest conveyed will be subject to the covenants and conditions in this instrument of conveyance.

33. That, if the covenant to develop the property interest (or any part thereof) for airport purposes within one year after the date of this conveyance is breached, or if the property interest (or any part thereof) is not used in a manner consistent with the terms of the conveyance, the Administrator may give notice to the Grantee requiring him to take specified actions towards development within a fixed period. These notices may be issued repeatedly, and outstanding notices may be amended or supplemented. Upon expiration of a period so fixed without completion by the Grantee of the required action, the Administrator may, on behalf of the United States, enter, and take title to, the property interest conveyed or the particular part of the interest to which the breach relates.

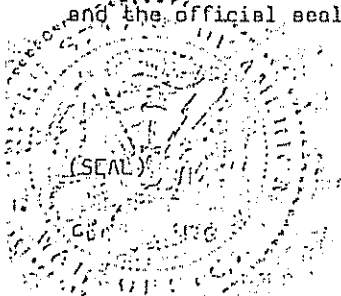
34. That, if any covenant or condition in this instrument of conveyance, other than the covenant contained in paragraph 33 above, is breached, the Administrator may, on behalf of the United States, immediately enter, and take title to, the property interest conveyed or, in his discretion, that part of that interest to which the breach relates.

35. That a determination by the Administrator that one of the foregoing covenants has been breached is conclusive of the facts; and that, if the right of entry and possession or title stipulated in the foregoing covenants is exercised, the Grantee will, upon demand of the Administrator, or his successor in function, take any action (including prosecution of suit or executing of instruments) that may be necessary to evidence transfer to the United States of title to the property interest conveyed, or, in the Administrator's discretion, to that part of that interest to which the breach relates.

TO HAVE AND TO HOLD the said premises, with the appurtenances, unto the said grantee and its successors and assigns, forever, subject to the covenants and conditions herein set forth.

Exclusive jurisdiction over all land involved in this deed was ceded to the United States pursuant to Section 26-252, Arizona Revised Statutes. Notice of acceptance of such jurisdiction was given in a letter dated 8 March 1956 from the Secretary of the Army to the Governor of Arizona. Section 26-252, Arizona Revised Statutes, provides that such jurisdiction shall continue no longer than the United States owns or leases the land. Accordingly, upon execution and delivery of this deed such jurisdiction over Parcels A and B will automatically retrocede to the State of Arizona in accordance with State law. Such retrocession of jurisdiction over Parcels A and B is intended and acknowledged by the Secretary of the Army. The jurisdiction of the United States will continue over Parcels C and D inasmuch as the United States has not divested itself of ownership by the grant of a license and a non-exclusive easement as provided in this deed.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed
and the official seal of the Department of the Army to be hereunto affixed.



UNITED STATES OF AMERICA

John M. Marshall Jr.

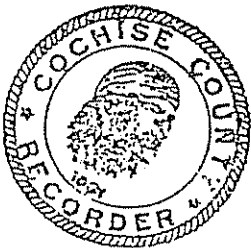
SECRETARY OF THE ARMY

APPROVED this 18th day of November, 19 82.

The approval by the Assistant Attorney General, Land and Natural Resources Division,
is made pursuant to authority delegated by the Attorney General by Section 0.67 of
Title 28 of the Code of Federal Regulations (Order No. 468.71 of the Attorney
General, October 9, 1971: 36 F.R. 20428).

Carol E. Dickinson

ASSISTANT ATTORNEY GENERAL
LAND AND NATURAL RESOURCES DIVISION
DEPARTMENT OF JUSTICE



STATE OF ARIZONA] SS.
COUNTY OF COCHISE]
WITNESS MY HAND AND OFFICIAL SEAL
CHRISTINE RHODES COUNTY RECORDER

[Signature] DEPUTY
DRAFT

INDEXED	PHOTOSTAT COMPLETED	BLOTTED
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I HEREBY CERTIFY THAT THE WITHIN
INSTRUMENT WAS FILED AND RECORDED
AT REQUEST OF: *City of Sierra Vista*
FEE SEMI
DATE DEC 2 '82 - 2 10 PM
DOCKET 1635 PAGE 266 NO 22538
274

DKT 1635 PAGE 273

ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA)
: SS
COUNTY OF ARLINGTON)

BEFORE ME, a Notary Public in and for the Commonwealth of Virginia,
County of Arlington, personally appeared, John O. Marsh, Jr.,
to me known to be the identical person and officer whose name is
subscribed to the foregoing instrument and acknowledged to me that he
executed the said instrument in the capacity therein stated for the
purposes therein expressed as the act and deed of the United States of
America.

GIVEN under my hand and seal, this 16th day of SEPTEMBER,

(SEAL)

My Commission Expires: 28 FEB 1983

W. L. Casey
NOTARY PUBLIC

STATE OF ARIZONA) SS
COUNTY OF COCHISE)

THE FOREGOING INSTRUMENT IS A REAL TRUE AND
CORRECT COPY AS APPEARS ON RECORD IN THIS OFFICE

In Docket 1635 Page 266-274

Attested 12/27 1982

CHRISTINE RHODES

By [Signature] Deputy

PKT 1635 PAGE 274

AGREEMENT

This Agreement is entered into pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954 by and between the State of Arizona acting by and through the Arizona Department of Transportation, Aeronautics Division, herein referred to as the "State" and _____ a political subdivision of the State of Arizona, herein referred to as the "Sponsor".

WITNESSETH

Recitals:

- 1) The Sponsor desires, in accordance with the authority granted by A.R.S. Section 2-303, a grant from the State for the purpose of airport planning and/or development.
- 2) The Arizona Transportation Board and the Director of the Arizona Department of Transportation, in accordance with the authority granted by A.R.S. 28-106, 28-108 and pursuant to 28-1706 have authorized the issuance of a grant to the Sponsor for airport planning and/or development.

Now, therefore, in consideration of the foregoing recitals and of the covenants and agreements by the parties herein made to be kept and performed, the parties agree as follows:

Sponsor's Responsibility

- 1) The Sponsor shall commence the effort required by and in accordance with the provisions of the grant application, Exhibit A hereto, within 60 days from the effective date of this Agreement.
- 2) The Sponsor shall provide evidence that its governing body has approved a resolution to enter into this Agreement along with a written determination of the appropriate attorney that the Sponsor is authorized under the laws of this State to enter into this Agreement. Such resolution and determination shall be attached hereto as Exhibits D and E respectively.
- 3) The Sponsor shall, prior to execution of this Agreement, submit a schedule which shall be attached hereto as Exhibit G for the efforts to be accomplished and shall complete the efforts within that schedule. Any change to the schedule must be approved by the State and such change shall be reflected herein by formal Amendment to this Agreement.
- 4) The Sponsor shall abide by and enforce the General Provisions incorporated hereto for a period of twenty years.

Obligations

The minimum funding participation from the Sponsor shall be _____ percentum of allowable costs.

The maximum funding available from the State to the Sponsor shall not exceed \$_____.

The State obligation to provide funds hereunder expires upon completion of the efforts required herein or 30 JUNE 1983, whichever is earlier.

Exhibits

The following Exhibits are incorporated and form a part of this Agreement.

- Exhibit A - Grant (Project) application
- Exhibit B - General Provisions (State)
- Exhibit C - Special Provisions (if attached)
- Exhibit D - Resolutions (Sponsor)
- Exhibit E - Determinations (Sponsor)
- Exhibit F - Determinations (State)
- Exhibit G - Completion Schedule

This Agreement shall be filed with the Arizona Secretary of State and shall become effective upon such filing.

STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION

SPONSOR

By _____

By _____

Title _____

Title _____

Date _____

Date _____

EXHIBIT B
GENERAL PROVISIONS - STATE

Contracts

The Sponsor as an independent entity and not as an agent of the State shall obtain the services required in order to fulfill the work covered in Exhibit A. The sponsor shall submit to the State for the State's approval prior to advertising for bids a copy of the request for proposal and contract. All contracts awarded under this Agreement shall state:

- 1) The name of the Engineer or Consulting and Engineering firm authorized to act on behalf of the Sponsor.
- 2) The scope of responsibility the Engineer has in regards to authorizing changes and the aggregate increase in contract price as a result of such changes.
- 3) That the contractor must comply with the provisions of Arizona Executive Order 75-5 dated 28 April 1975 relating to equal opportunity.
- 4) The terms for termination either for the contractors/consultant's failure to perform or in the best interest of the Sponsor.
- 5) That duly authorized representatives of the State shall have access to any books, documents, papers and records of the contractor which are in any way pertinent to the contract for the purpose of making audit, examination, excerpts and transcriptions.

Employment of Consultants

Airport planning, design, or construction inspection may either be by qualified members of the Sponsor's staff, or by qualified consultants. If a consultant is to be used, the Sponsor agrees to consider at least three (3) separate firms before retaining a firm for this project.

Financial

The Sponsor shall establish and maintain for each project governed by this Agreement, an adequate accounting record to allow State personnel to determine all funds received (including funds of the Sponsor and funds received from the United States or other sources) and to determine the allowability of all incurred costs of the project. The Sponsor shall segregate and group project costs so that it can furnish costs information in the following costs classifications:

- 1) Purchase price or value of land.
- 2) Cost of relocation payment and assistance.
- 3) Incidental costs of land acquisition.
- 4) Costs of contract construction.

- 5) Costs of force account construction.
- 6) Engineering costs of plans and designs.
- 7) Engineering costs of supervision and inspection.
- 8) Other administrative costs.

Plans, Specifications and Estimates

Plans, specifications and estimates will be prepared for the project by or under the personal direction of a qualified engineer registered by the State of Arizona. Plans and specifications will be submitted to the State for review at least 15 days prior to bid advertisement.

Construction will be executed under the direct supervision of qualified engineers registered by the State of Arizona.

Reports

Unless otherwise specified in writing, the Sponsor shall submit weekly reports which shall reflect the progress accomplished in relation to the contract schedule, reasons for delay and recommended corrections of problems encountered. The report shall also include financial information consisting of the contract price, price of changes, total expenditures to date and additional funding required to complete the project.

Changes

Any changes in the scope of work specified by the Sponsor's contract with the contractor must receive approval of the State prior to the Sponsor authorizing it. All costs incurred in performing a change under the scope of work prior to the State's authorization may be disallowed and ineligible for State assistance.

An approval by the State of a contract or a change under the contract shall not obligate the State to provide funds beyond those funds obligated by this Agreement. Any changes to the amount of funds authorized hereunder must be by formal amendment hereto.

Suspension of Grant

If the Sponsor fails to comply with the conditions of this Agreement, the State by written notice to the Sponsor may suspend the Grant and withhold payments until corrective action has been taken by the Sponsor. Any costs incurred during this period of suspension shall not be eligible for reimbursement by the State.

Failure to Perform

If the Sponsor fails to comply with the conditions of the Agreement, the State may by written notice to the Sponsor terminate the Agreement in whole or in part. The notice of termination will contain the reasons for termination and the effective date of termination. Upon receipt of the Notice of termination, the Sponsor shall not incur additional obligation of Grant funds.

Termination for Convenience

When the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds or when funds are not appropriated or are withdrawn for use hereunder, the State may terminate this Agreement. In the case where continuation of the project would not produce beneficial results, the State and the Sponsor shall mutually agree upon the termination either in whole or in part. In the case where funds have been withdrawn or not appropriated, the State shall have the right to termination at its sole option. Upon receipt of the notice of termination, the Sponsor shall not incur any additional obligations of Grant funds.

All parties are hereby put on notice that this Agreement is subject to cancellation by the Governor pursuant to Arizona Revised Statutes Section 38-511.

Waiver by State

No waiver of any condition, requirement or right expressed in this Agreement shall be implied by any forbearance of the State to declare a default, failure to perform or to take any other action on account of the violation of such violation be continued or repeated.

Compliance with Laws

The Sponsor shall comply with all Federal, State and local laws, rules, regulations, ordinances and decrees which are applicable to the performance hereunder.

Jurisdiction

In the event of litigation between the Sponsor and the State, litigation shall be commenced and prosecuted in an appropriate court of competent jurisdiction within Maricopa County, State of Arizona.

Excess of Grant Payments

If, upon final determination of the allowability of all project costs of a project hereunder, it is found that the total grant payments to the Sponsor exceeds the State's share of allowable costs, the Sponsor shall promptly return the excess to the State. Final determination of State's share of allowable costs shall rest solely with the State.

State Inspectors

Prior to final payment of Grant funds for work performed under this Agreement, the State shall perform, or have performed, an inspection of the work site to insure strict compliance with the terms herein and to review the workmanship of the Sponsor's contractors and/or consultants. No inspector is authorized to change any provisions of this Agreement or any provisions of Agreements between the Sponsor and the Sponsor's contractor and/or consultant.

Indemnification

The State of Arizona, acting by and through the Arizona Department of Transportation does not assume any liability to third persons nor will the Sponsor be reimbursed for the Sponsor's liability to third person resulting in any way from the performance of this Agreement or any subcontract hereunder.

The Sponsor shall indemnify and hold harmless the State, any of their departments, agencies, officers and employees from any and all liability, loss or damage the State may suffer as a result of claims, demands, costs or judgments of any character arising out of the performance or non performance of the Sponsor or its independent contractors in carrying out any provisions of this Agreement.

This indemnification shall include, in the event of any action, court costs, expenses of litigation and reasonable attorney's fees.

Required Provisions Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement shall forthwith be physically amended to make such insertion or correction.